

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.1335 OF 2005

Smt Jankabai Vasant Sutar ...Appellant

Vs.

Tatya Mahadeo Jadhav & Anr. ...Respondents

Mr R.G. Ketkar for the Appellant.

Mr R.V. More for the Respondent Nos.1 and 2.

CORAM : A. S. OKA, J.

DATE : MARCH 08, 2006.

P.C.:

1. Heard Shri Ketkar appearing for the Appellant. The Second Appeal is by an unsuccessful original plaintiff. The suit filed by the Appellant-Plaintiff was for perpetual injunction. The suit is based on the contention that though the property in dispute was sold by the registered Sale Deed executed by the mother of the Appellant in the year 1962, the said Sale Deed was not to be acted upon.

2. The courts below have found that the challenge to the Sale Deed executed in the year 1962 was made for the first time in the year 1993 by filing the present suit. Apart from this, the courts below have found that mother of the Appellant had accepted monitory consideration under the said Sale Deed.

3. Shri Ketkar appearing for the Appellant invited my attention to paragraph No.13 of the

decision of the Appellate Court and submitted that there is a difference between the Area of the property subject matter of sale mentioned in the Sale Deed executed by the mother and the area of the suit property shown in the Commissioner's report. Once the contention of the Appellant that Sale Deed of the year 1962 was not to be acted upon is rejected by the courts below, the Appellant cannot now rely upon discrepancy in the area mentioned in the Sale Deed and the one mentioned in the Commissioner's report.

4. In view of the concurrent findings of fact recorded by the courts below, no substantial question of law arises and the Second Appeal is dismissed with no orders as to costs.

JUDGE